

## UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America

v.

Brian Risso

Case No. **CR 22-70202-MAG***Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of February 15, 2022 in the county of Santa Clara in the  
Northern District of California, the defendant(s) violated:*Code Section*

18 U.S.C. § 2252(a)(4)(B) &amp; (b)(2)

*Offense Description*Possession of Child Pornography on or about February 15, 2022  
(penalties: fine and imprisonment for not more than 20 years)

This criminal complaint is based on these facts:

Please see attached affidavit of Special Agent Benjamin I. Burnheimer, Federal Bureau of Investigation.

☒ Continued on the attached sheet.

Approved as to form

SAUSA Daniel N. Kassabian

*Complainant's signature*

Special Agent Benjamin I. Burnheimer, FBI

*Printed name and title*

Sworn to before me by telephone.

Date:

*Judge's signature*City and state: San Jose, California

Hon. Nathanael Cousins, U.S. Magistrate Judge

*Printed name and title*

**AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR CRIMINAL COMPLAINT**

I, Benjamin I. Burnheimer, Special Agent with the Federal Bureau of Investigation (“FBI”), being duly sworn, state:

**INTRODUCTION**

1. I make this affidavit in support of an application for a complaint and warrant authorizing the arrest of **BRIAN RISSO** for possession of child pornography – specifically, the four below-described videos of child pornography – on February 15, 2022, in violation of 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2) (“Target Offense”).

**SOURCES OF INFORMATION**

2. This affidavit is submitted for the limited purpose of a securing a criminal complaint and arrest warrant. I have not included every fact known to me concerning this investigation. Instead, I have set forth only the facts necessary to establish probable cause that the violation of the federal law identified above has occurred. I base my statements in this affidavit on my training and experience, personal knowledge of the facts and circumstances obtained through my participation in this investigation, information provided by other agents, law enforcement officers, and witnesses, and information provided by records and databases. When conversations and events are referenced, they are often referred to in substance and in relevant part rather than in their entirety or verbatim. This affidavit also reflects my current understanding of facts relating to this investigation, but my understanding may change in the future as the investigation proceeds.

**AFFIANT BACKGROUND**

3. I am a Special Agent with the Federal Bureau of Investigation (FBI). I have been so employed since approximately September 2015. I am currently assigned to the San Francisco Field Office, Oakland Resident Agency, to a squad that investigates crimes against children. Since joining the FBI, I have investigated, among other things, federal criminal violations related to child pornography and the sexual exploitation of minors. I am currently assigned to investigate cases involving the sexual exploitation of minors, including such exploitation via the Internet and computers. I have received training in the areas of child pornography, child

exploitation, and human trafficking, and have had the opportunity to observe and review numerous examples of child pornography (including as defined in 18 U.S.C. § 2256) in multiple forms of media, including computer media and cellular and smartphone devices. I have participated in the execution of numerous federal search warrants conducted by the FBI and in the seizure of computer systems and other types of digital evidence. I have also applied for and participated in the execution of federal arrest warrants. In addition, I am certified as a Digital Evidence Extraction Technician (DEXT) within the FBI. As a DEXT, I am trained and authorized to conduct forensic examinations of digital evidence. This work includes the preservation and analysis of various forms of digital media, including cellular devices and computers. Since approximately April 2019, I have preserved and examined numerous items of digital evidence, many of which were related to investigations involving crimes against children.

4. I am an investigator and law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7). I am empowered by law to conduct investigations, to execute search warrants, and to make arrests for offenses of federal law, including offenses enumerated in 18 U.S.C. § 2252.

#### **APPLICABLE STATUTES**

5. 18 U.S.C. § 2252(a)(4)(B) states in relevant part:

Any person who knowingly possesses, or knowingly accesses with intent to view, 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if— the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and (ii) such visual depiction is of such conduct; shall be punished as provided in subsection (b) of this section.

6. 18 U.S.C. § 2252(b)(2) states in relevant part:

Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both, but if any visual depiction involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this

title and imprisoned for not more than 20 years, or if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 10 years nor more than 20 years.

### **FACTS SUPPORTING PROBABLE CAUSE**

7. On February 15, 2022, I along with other FBI agents executed a Federal Search Warrant, CR 22-70139-VKD, authorized by the Honorable Virginia K. DeMarchi, United States Magistrate Judge, on a residence located in San Jose, California, within the Northern District of California. Agents subsequently identified two inhabitants of the residence, one of whom was Brian RISSO. Agents seized an Apple iMac computer that was located in the front bedroom of the residence.

8. During the execution of the warrant, RISSO consented to be interviewed. RISSO confirmed that he currently lived at the residence and had lived there for the past seven to eight years. Additionally, he confirmed that his bedroom was located in the front of the residence and that he owned an iMac computer. I know that iMac computers, like this one, are manufactured outside of the state of California. RISSO said that he was the only person to use his computer:

SA Burnheimer:	Does he [other resident] use your computer?
RISSO:	No, everything on there is all me.

9. RISSO was asked if he viewed pornography, and if he did, was asked about o the types of pornography he viewed and downloaded. The following exchange ensued:

SA Burnheimer:	Okay, we are on a child exploitation squad.
RISSO:	Oh boy, yeah I kinda figured as much.
SA Burnheimer:	We have a search warrant to search the house, the vehicles, and to seize everything. I don't want to seize everything, only the stuff that has potentially illegal files on it.
RISSO:	yeah
SA Burnheimer:	Will we find that on your computer?
RISSO:	Probably, probably, yeah I don't want to get anyone else hung on this.
SA Burnheimer:	What are we going to find on your computer?
RISSO:	Yes, pretty bad shit.

RISSO: No excuses, I don't know why. There's a little bit of everything on there.

10. During the interview, RISSO stated that he started downloading and viewing child pornography years ago, before he moved to his current residence. RISSO admitted to storing the files containing child pornography on his computer, which was the Apple iMac in his bedroom. RISSO said he worked for the City of Campbell doing building maintenance. The building maintenance shop, where he worked, is located at the City of Campbell Community Center. RISSO had an office in the same building in which the preschool is located, with other schools located nearby. He saw kids every day but did not watch kids from his office. Regarding the kids at his place of work, RISSO said:

That's the paradox. That's the thing, you know, when I look at this and I go, what the hell am I doing? And 'cause then, sometimes I think, God you know, you're around kids and you, you know, I feel horrible. I see, like some kids walking around and I go, God you know, what was I, why was I looking at this? I don't know. It's one for the books.

11. On or about February 17, 2022, I conducted a preliminary review of the Apple iMac seized from RISSO's residence and identified approximately 542 files of known child pornography, consisting of 513 images and 29 videos that contained at least one identified minor victim. A full examination of the Apple iMac is ongoing. Those files depicting child pornography included the following:

a. The file, entitled "falkovideo part1.mp4", is 27 minutes and 34 seconds in length. In the video, a female, who appears to be prepubescent, is on her hands and knees while an unknown female inserts a silver object into the minor female's anus. During another part of the video, an adult female grasps the minor female's hand and guides it into her vagina. Throughout the video, various objects are inserted into the minor female's vagina and anus. Towards the end of the video, the minor female appears handcuffed while a silver object is rubbed on the minor female's vagina and another object is inserted into the minor female's anus.

b. The file, entitled “falkovideo part2.mp4”, is 33 minutes and 30 seconds in length. In the video, a female, who appears to be prepubescent, is on her hands and knees while her anus is digitally penetrated by an adult female. The minor female is then seen performing oral sex on an unknown female. Later in the video, an adult male penetrates the minor female’s vagina with his anus.

c. The file, entitled “TC – Dely & Sarah gang bang AI enhanced.mp4”, is 46 minutes and 32 seconds in length. In the video, a minor female is seen performing oral sex on an unknown male. Later in the video, an unknown male penetrates the minor female’s vagina with his penis. Towards the end of the video, an unknown male engages in genital-genital sexual intercourse with the minor female.

d. The file, entitled “00146.mp4,” is 38 minutes in length. In the video, a prepubescent female is seen fully clothed dancing on a couch. An unknown male enters the room, sits down on the couch, places the minor female on his lap, inserts his hand underneath her underwear and begins rubbing her vagina. The unknown male undresses the minor female and digitally penetrates her anus. The minor female is then seen performing oral sex on the unknown male while he is lying down on a couch. Towards the end of the video, the minor female is seen bent over the unknown male’s lap while he inserts a black object into her anus.

12. Additionally, I located multiple text files containing approximately 233,000 manifest keys for Freenet, an online file-sharing program. An individual with a manifest key is able to enter that key into the Freenet software to request and download a file through Freenet. Anyone running the Freenet software may join and access the Freenet network. Each computer running Freenet connects directly to other computers running Freenet, which are called its “peers.” When installing Freenet, each user agrees to provide to the network a portion of the storage space on the user’s computer hard drive, so that files uploaded by Freenet users can be distributed and stored across the network. Freenet users can upload files into the Freenet network and download files from the Freenet network. Each manifest key can be used to retrieve a

separate file through Freenet. The manifest key also includes the filename. Some of the filenames contained in the text documents of manifest keys found on RISSO's computer include “! New ! (Pthc) Tara 8Yr - She Loves Sucking Daddy's Dick.wmv,” “! Girl 11yo deflowered with a screwdriver.jpg”, and “2Yo Girl - Vigorously Fucked (Hard).avi.”

**CONCLUSION**

13. On the basis of the information summarized above, there is probable cause to believe that on or about February 15, 2022, in the Northern District of California, RISSO knowingly possessed child pornography, in violation of 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2).

  
\_\_\_\_\_  
BENJAMIN BURNHEIMER  
FBI Special Agent

Sworn to before me over the telephone and signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d) on this 18 day of February 2022.

  
\_\_\_\_\_  
HONORABLE NATHANAEL COUSINS  
United States Magistrate Judge

phone

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**
 BY: ☒ COMPLAINT ☐ INFORMATION ☐ INDICTMENT  
☐ SUPERSEDING
**OFFENSE CHARGED**

18 U.S.C. § 2252(a)(4)(B) &amp; (b)(2)

- ☐
- Petty
- 
- ☐
- Minor
- 
- ☐
- Misdemeanor
- 
- ☒
- Felony

PENALTY: Maximum prison term 20 years; Maximum fine \$250,000; Restitution of at least \$3,000; Maximum supervised release term of Life; Minimum supervised release term 5 years; Mandatory special assessment \$5,100; Potential Deportation; Forfeiture; Registration as a sex offender

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

**DEFENDANT - U.S.**

▶ Brian Riso

DISTRICT COURT NUMBER

**CR 22-70202-MAG****PROCEEDING**

Name of Complainant Agency, or Person (&amp; Title, if any)

Special Agent Benjamin I. Burnheimer. FBI

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW  
DOCKET NO.
☐ this prosecution relates to a pending case involving this same defendant
MAGISTRATE  
CASE NO.
☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

 Name and Office of Person  
 Furnishing Information on this form Stephanie Hinds

☒ U.S. Attorney ☐ Other U.S. Agency

 Name of Assistant U.S.  
 Attorney (if assigned) Daniel N. Kassabian
**DEFENDANT****IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1)
- ☐
- If not detained give date any prior summons was served on above charges ▶
- 
- 2)
- ☒
- Is a Fugitive
- 
- 3)
- ☐
- Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4)
- ☐
- On this charge
- 
- 5)
- ☐
- On another conviction }
- ☐
- Federal
- ☐
- State
- 
- 6)
- ☐
- Awaiting trial on other charges
- 
- If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

**DATE OF  
ARREST**

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

**DATE TRANSFERRED  
TO U.S. CUSTODY**

Month/Day/Year

☐ This report amends AO 257 previously submitted
**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**
☐ SUMMONS ☐ NO PROCESS\* ☒ WARRANT

Bail Amount: None

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

\* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments: